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FCC Mail Room

GOVERNOR GREG ABBOTT

November 3, 2016

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Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: *Modernizing the E-rate Program for Schools and Libraries*,  
WC Docket No. 13-184

Dear Ms. Dortch:

I write regarding the ongoing *Modernizing the E-rate Program for Schools and Libraries* rulemaking to request that the Federal Communications Commission (FCC) (1) extend its suspension of the amortization policy and (2) increase the discount rate for nonrecurring construction costs where states provide matching funds.

The FCC's stated goal for this program is "ensuring affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries."<sup>1</sup> The modified E-rate program has worked to achieve this worthy goal by allowing school districts to bring high-speed broadband to underserved areas — where it is sorely needed to improve and expand educational opportunities for students across Texas. The rules implemented by the FCC in 2014 were successful in that they effectively encouraged states and school districts to work together to bring fiber optic connections to underserved schools. As a result of these rule modifications, which were adopted to "clos[e] the rural connectivity gap and increasing affordable high-speed broadband connections to schools and libraries,"<sup>2</sup> many largely rural schools — that needed to significantly update their broadband infrastructure — will now have fiber optic connections and high-speed Internet access.

Despite these early successes, there is still much work to be done before our rural schools have the necessary infrastructure to serve their students. Indeed, many rural Texas schools still have

<sup>1</sup> See *In re Modernizing the E-rate Program for Schools and Libraries*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 13-184 (rel. July 23, 2014) ("E-rate Modernization Order"); see also *In re Modernizing the E-rate Program for Schools and Libraries*, *Connect America Fund*, Second Report and Order and Order on Reconsideration, WC Docket Nos. 13-184 & 10-90 (rel. Dec. 19, 2014) ("Second E-rate Modernization Order") at ¶ 26.

<sup>2</sup> *Second E-rate Modernization Order* ¶ 12.

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not been able to leverage the E-rate program to access affordable high-speed broadband. This is the case largely because of the significant startup costs associated with constructing fiber optic networks. Even with the discounts provided through the modernized E-rate program, the upfront, nonrecurring costs of extending fiber optic networks are simply too high for most school districts to bear.<sup>3</sup> In order to ensure that the largely rural Texas schools and school districts requiring upgrades are not left without high-speed Internet access as a result of their inability to fund a significant upfront infrastructure investment, I respectfully recommend that the FCC consider two rule adjustments.

First, the FCC could extend the suspension of the Universal Service Administrative Company's (USAC) multiyear amortization policy for nonrecurring construction costs for an additional two years.<sup>4</sup> Until the FCC suspended it as part of the *Second E-rate Modernization Order*, USAC had a policy that required E-rate applicants to amortize special construction charges of more than \$500,000 over a period of at least three years. As a result, even if an applicant had to make a large upfront expenditure on a construction project, it had to recover the E-rate supported portion of that expenditure over the course of a number of years. However, these fears did not ultimately become a reality — because these upfront payments were not actually burdening the fund prior to the FCC's E-rate reforms. Consequently, the amortization policy, among other rules, had the perhaps unintended consequence of merely preventing many schools from "undertak[ing] large construction projects" and from "choosing the most cost-effective options for increasing the high-speed broadband connections."<sup>5</sup> As a result, the FCC prudently responded by suspending the USAC's policy in order to "give applicants the flexibility to plan large construction projects knowing they can recover the E-rate supported portion of any non-recurring costs upfront."<sup>6</sup> Continuing the suspension of the amortization policy for an additional two years will give states and school districts sufficient time to take advantage of this opportunity to bring high-speed broadband to their schools. In Texas, we will work with the Texas Legislature to establish fiber matching funds with the hope that funds will be in place for the 2017–2018 E-rate cycle. Because many Texas school districts will not be able to begin the multiyear fiber construction process until matching funds are available, extending the suspension of the amortization policy will provide time for many more schools to avail themselves of this opportunity to obtain high-speed broadband.

Second, the FCC could provide a 90 percent discount for nonrecurring construction costs to bring fiber optic connections to schools that do not currently have such connections, provided that the State — in this case Texas — funds 10 percent of the construction costs, regardless of the school district's actual discount rate.<sup>7</sup> Providing a 90 percent discount on nonrecurring costs for schools lacking fiber optic connections when states offer to make up the remaining 10 percent of the costs would ensure that many more schools can affordably connect to high-speed

<sup>3</sup> For example, during the most recent E-rate cycle, the sixty-three school districts in Texas that required significant upfront investments to bring fiber to their schools averaged \$750,000 per district in upfront costs.

<sup>4</sup> See *Second E-rate Modernization Order*, ¶¶ 18-21.

<sup>5</sup> *Id.* ¶ 11; see also *id.* ¶ 19 (noting that "USAC's current amortization policy may actually increase the total costs borne both by applicants and the program").

<sup>6</sup> *Id.* ¶ 17.

<sup>7</sup> See *id.* at ¶¶ 55-59.

broadband. Increasing the discount rate to 90 percent will also incentivize the Texas Legislature to establish and expand matching funds for schools seeking fiber optic connections by providing an opportunity to make a one-time investment that will enable all schools across the state to secure high-speed broadband infrastructure.

The proposed changes will provide the time and resources for Texas and our school districts to work with service providers to extend fiber optic networks to underserved schools that need them. By improving the ability of Texas schools in rural and economically depressed areas to obtain the access to high-speed broadband, these proposed rule changes will bring the FCC closer to its goal of making affordable high-speed broadband available to all students. I will work diligently to ensure that our next State budget includes fiber matching funds to provide “affordable access to high-speed broadband sufficient to support digital learning in schools.”<sup>8</sup> To guarantee that these funds have the desired impact, I hope that the FCC will carefully consider these proposed changes to the E-rate program.

Sincerely,

A handwritten signature in black ink, reading "Greg Abbott". The signature is fluid and cursive, with the first name "Greg" being more prominent than the last name "Abbott".

Greg Abbott  
Governor

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<sup>8</sup> *Id.* ¶ 10.